26.11.2025
Court No.551

Sl. No.24
Mujahid

WPA 21321 of 2025

M/s. Kalyani Brothers
Vs.
The Superintendent Central GST & Central Excise,
Raiganj Range & Ors.

Mr. Rishav Manna
Mr. Akash Chakraborty
...for the petitioner

Mr. Uday Sankar Bhattacharya
Ms. A. Rajyeshree
Mr. B. Bhattacharya
...fort the CGST

This writ petition assails an order dated June 26, 2025 passed by the appellate authority under Section 107 of the CGST Act, 2017/WBGST Act, 2017 (hereafter the said Act of 2017) whereby the petitioner's appeal against an order in original dated December 22, 2023 passed under Section 73 of the said Act of 2017, has been dismissed.

The appeal has been dismissed on the ground of delay.

Learned advocate appearing for the petitioner has taken this court through the explanation furnished before the appellate authority for the delay occasioned in preferring the appeal (at pages 58-59 of the writ petition) and has submitted that the appellate authority committed an error in failing to appreciate that the petitioner could not keep track of the order in original, inasmuch as, the earlier notices and orders including the show-cause notice, were uploaded on the relevant portal of the GST authorities under the “Additional notices/orders” tab but the order in original was suddenly uploaded under the normal “notices/orders” tab.

It is submitted that in view of this sudden exceptional uploading of the order in original in a different tab, the petitioner could keep rack thereof and missed the timeline prescribed for filing appeal before the appellate authority.

Mr. Bhattacharya, learned advocate appearing for the CGST authorities submits that in the case at hand, the petitioner has not indicated as to when did the petitioner get knowledge of the order in original and as such, the appellate authority has rightly refused to condone the delay and to entertain the appeal on merits.

Having heard the learned advocates for the respective parties and having considered the materials on record, this Court is of the view that since the petitioner has not indicated the date on which the petitioner became aware of the order in original, therefore, the explanation furnished by the petitioner is not fully satisfactory. However, having regard to the fact that the final fact finding authority, i.e., the Tribunal before which the appellate order could be carried in appeal in terms of Section 112 of the said Act of 2017 has not yet become functional, and that if the delay occasioned by the petitioner (for which the petitioner has given at least a modicum of explanation, though not fully satisfactory), is not condoned then the petitioner would lose a forum, this court is of the view that it would be proper to allow the petitioner one more opportunity to press its appeal on merits upon putting the petitioner on terms.

In such view of the matter, if the petitioner pays a sum of Rs.10,000/- to the State Legal Services Authority within three weeks from date and furnishes proof thereof to the appellate authority, the delay occasioned by the petitioner in preferring the appeal before the appellate authority shall stand condoned and the appellate authority shall proceed to hear the appeal on merits. In such case, the order impugned herein dated June 26, 2025 shall have no effect. It is clarified that if the petitioner fails to make payment in terms of this order, this order shall not enure to the benefit of the petitioner.

WPA 21321 of 2025 stands disposed of with the above observations.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)